

1 R. JULY SIMPSON, WSBA #45869  
WILLIAM MCGINTY, WSBA #41868  
2 ANDREW HUGHES, WSBA #49515  
BRIAN HUNT ROWE, WSBA #56817  
3 Assistant Attorneys General  
JEFFREY T. EVEN, WSBA #20367  
4 Deputy Solicitor General  
KRISTIN BENESKI, WSBA #45478  
5 First Assistant Attorney General  
Washington State Office of the Attorney General  
6 7141 Cleanwater Dr. SW  
PO Box 40111  
7 Olympia, WA 98504-0111  
(360) 709-6470  
8

9 **UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON**

10 MICHAEL SCOTT BRUMBACK,  
an individual, et al.,

11 Plaintiffs,

12 v.

13 ROBERT W. FERGUSON, in his  
14 official capacity as Washington  
State Attorney General, et al.,

15 Defendants.  
16

NO. 1:22-cv-03093-MKD

STATE DEFENDANTS'  
ANSWER TO  
COMPLAINT FOR  
INJUNCTIVE AND  
DECLARATORY RELIEF

17 Defendant Robert W. Ferguson, in his official capacity as Washington State  
18 Attorney General, and John R. Batiste, in his official capacity as Chief of the  
19 Washington State Patrol (State Defendants), answer Plaintiffs' Complaint for  
20 Injunctive and Declaratory Relief (Complaint). Except as expressly admitted or  
21 qualified, State Defendants deny each and every allegation, statement, or charge  
22 contained in the Complaint, and deny that Plaintiffs are entitled to any of the relief

1 requested. State Defendants deny Plaintiffs' characterization of the State's laws and  
2 regulations to the extent such characterization is inconsistent with the State's laws  
3 and regulations, which speak for themselves. State Defendants further deny that  
4 Plaintiffs are entitled to the requested relief set forth in the introductory paragraphs,  
5 or any relief. State Defendants answer the numbered paragraphs of Plaintiffs'  
6 Complaint as follows:

7 **I. INTRODUCTION**

8 1. State Defendants are without knowledge or information sufficient to  
9 form a belief as to the truth of the allegations in Paragraph 1 and, therefore, deny  
10 the same.

11 2. State Defendants are without knowledge or information sufficient to  
12 form a belief as to the truth of the allegations in the first two sentences of  
13 Paragraph 2 and, therefore, deny the same. State Defendants admit that Engrossed  
14 Substitute Senate Bill (ESSB) 5078 became effective on July 1, 2022. ESSB 5078  
15 speaks for itself. State Defendants are without knowledge or information  
16 sufficient to form a belief as to the truth of the alleged financial harm to  
17 Plaintiff Gimme Guns and, therefore, deny the same. The remainder of  
18 Paragraph 2 contains legal conclusions and argument to which no response is  
19 required. To the extent a response is required, State Defendants deny the  
20 remainder of Paragraph 2.  
21  
22

1           3. State Defendants admit that ESSB 5078 became effective on  
2 July 1, 2022. ESSB 5078 speaks for itself. The remainder of Paragraph 3 contains  
3 legal conclusions and argument to which no response is required. To the extent a  
4 response is required, State Defendants deny the remainder of Paragraph 3, and  
5 specifically deny that ESSB 5078 “impairs, and/or infringes upon  
6 [Plaintiff Brumback’s] right to keep and/or bear arms under the US and  
7 Washington Constitutions.”

8           4. The case quoted in Paragraph 4 speaks for itself and requires no  
9 response. To the extent a response is required, State Defendants admit that the  
10 quotation is partially accurate and otherwise deny Paragraph 4.

11           5. Paragraph 5 contains legal conclusions and argument to which no  
12 response is required. To the extent a response is required, Paragraph 5 is denied,  
13 and State Defendants specifically deny that “detachable ammunition magazines  
14 over 10 rounds” cannot be regulated consistent with the U.S. and  
15 Washington Constitutions.

16           6. Paragraph 6 contains legal conclusions and argument to which no  
17 response is required. To the extent a response is required, it is denied.

18           7. Paragraph 7 contains legal conclusions and argument to which no  
19 response is required. To the extent a response is required, Paragraph 7 is denied.

20           8. The case quoted in Paragraph 8 speaks for itself and requires no  
21 response. To the extent a response is required, State Defendants admit that the  
22

1 quotation is partially accurate and otherwise deny Paragraph 8.

2 9. State Defendants deny Paragraph 9.

3 10. ESSB 5078 and Wash. Rev. Code 9.41 speak for themselves and  
4 require no response. To the extent a response is required, State Defendants deny  
5 Plaintiffs' characterization of ESSB 5078 and Wash. Rev. Code 9.41 to the extent  
6 such characterization is inconsistent with ESSB 5078 and 9.41 Wash. Rev. Code  
7 9.41. The remainder of Paragraph 10 contains legal conclusions and argument to  
8 which no response is required. To the extent a response is required, Paragraph 10  
9 is denied.

10 11. Paragraph 11, including the footnotes thereto, contains legal  
11 conclusions and argument to which no response is required. To the extent a  
12 response is required, Paragraph 11 is denied.

13 12. Paragraph 12 contains legal conclusions and argument to which no  
14 response is required, and the cited case speaks for itself. To the extent a response  
15 is required, Paragraph 12 is denied, and State Defendants specifically deny that  
16 they have or will "violate the constitutionally protected rights of not only  
17 Plaintiffs, but of all law-abiding citizens in Washington."

18 13. Paragraph 13 asserts argument, speculation, and legal conclusions  
19 that require no response, and ESSB 5078 speaks for itself. To the extent a  
20 response is required, Paragraph 13 is denied.

21 14. Paragraph 14 asserts argument, speculation, and legal conclusions  
22

1 that require no response, and ESSB 5078 speaks for itself. To the extent a  
2 response is required, Paragraph 14 is denied. State Defendants specifically deny  
3 that ESSB 5078 “prohibits good people from possessing tools necessary to  
4 defend themselves (firearms and accessories).”

5 15. State Defendants admit that “firearms fitted with magazines over 10  
6 rounds” have been used “to commit crimes and kill innocent people” and  
7 otherwise deny Paragraph 15. State Defendants specifically deny that “magazines  
8 holding 10 or fewer rounds” are inadequate for self-defense.

9 16. The documents cited in Paragraph 16 speak for themselves, and  
10 Plaintiffs’ characterization of the information in the documents requires no  
11 response. To the extent a response is required, Paragraph 16 is denied.

12 17. Paragraph 17 is denied. State Defendants specifically deny that  
13 ESSB 5078 “is an impairment of a good person’s right to bear arms under  
14 Article I, Section 24 of the Washington Constitution.”

15 18. Paragraph 18 asserts argument, speculation, and legal conclusions  
16 that require no response. To the extent a response is required, Paragraph 18 is  
17 denied.

18 19. Paragraph 19 asserts a legal conclusion that requires no response, to  
19 the extent a response is required, it is denied.

20 20. The case quoted in Paragraph 20 speaks for itself and requires no  
21 response. To the extent a response is required, State Defendants admit that the  
22

1 quotation is partially accurate and otherwise deny Paragraph 20.

2 21. The document cited in Paragraph 21 speaks for itself, and Plaintiffs’  
3 characterization of information found in the document requires no response. Any  
4 allegations in Paragraph 21 that require a response are denied, and  
5 State Defendants specifically deny that earthquake preparedness has any  
6 relevance to the claims asserted herein.

7 22. State Defendants lack knowledge of what Governor Inslee or his  
8 staff have been “briefed on,” but admit that the earthquake risk associated with  
9 the Cascadia Subduction Zone is generally known. State Defendants otherwise  
10 deny the allegations in Paragraph 22, and specifically deny that earthquake  
11 preparedness has any relevance to the claims asserted herein.

12 23. Paragraph 23’s allegations regarding “widespread criminal  
13 rampaging” are speculative and require no response. Any allegations in  
14 Paragraph 23 that require a response are denied.

15 24. State Defendants admit that weapons equipped with “ammunition  
16 magazines in excess of 10 rounds” pose a public-safety risk, and otherwise deny  
17 Paragraph 24.

18 25. State Defendants admit that some law enforcement agencies within  
19 Washington are in possession of armored vehicles, and otherwise deny  
20 Paragraph 25.

26. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26 and, therefore, deny the same.

27. Paragraph 27 asserts argument, speculation, and legal conclusions that require no response. To the extent a response is required, Paragraph 27 is denied.

28. The case law cited in Paragraph 28 speaks for itself and requires no response. To the extent a response is required, State Defendants admit that the judgment in *Duncan v. Bonta*, 19 F.4th 1087 (9th Cir. 2021), was vacated and remanded to the U.S. Court of Appeals for the Ninth Circuit for further consideration in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 597 U.S. ----, 142 S. Ct. 2111 (2022).

## II. JURISDICTION AND VENUE

29. Paragraph 29 asserts legal conclusions that require no response, and that are moot in light of this case’s removal to federal court. To the extent a response is required, Paragraph 29 is denied.

30. Paragraph 30 asserts legal conclusions that require no response. To the extent a response is required, it is denied.

31. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 and, therefore, deny the same.

### III. PARTIES

32. State Defendants deny that “Gimme Guns is a licensed Washington state business,” because as of the filing of this Answer, this entity does not appear in the Washington Secretary of State’s Corporations and Charities Filing System. State Defendants admit that, as of the filing of this Answer, the Bureau of Alcohol, Tobacco, Firearms and Explosives’ “FFL eZ Check” system indicates that Federal Firearms License Number 9-91-XXX-XX-XX-05394 is associated with the trade name “Gimme Guns.” State Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 32 and, therefore, deny the same.

33. State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 and, therefore, deny the same.

34. State Defendants admit that the Complaint names Robert W. Ferguson, in his official capacity as Washington State Attorney General, as a Defendant. State Defendants admit that the paragraph accurately quotes a portion of Wash. Rev. Code. § 43.10.030, which speaks for itself with respect to the Attorney General’s powers and duties. State Defendants deny all allegations and inferences that are inconsistent with the law and news release cited in this paragraph. To the extent any remaining allegations in Paragraph 34 require a response they are denied.



35. State Defendants admit that the Complaint names John R. Batiste, in his official capacity as Chief of the Washington State Patrol, as a Defendant. State Defendants admit that the paragraph accurately quotes a portion of Wash. Rev. Code. § 43.43.030, which speaks for itself with respect to the Chief's powers and duties. To the extent any remaining allegations in Paragraph 35 require a response, they are denied.

36. State Defendants admit that the Complaint names Robert Udell, in his official capacity as Sheriff for Yakima County, Washington, as a Defendant. State Defendants admit that the paragraph accurately quotes a portion of Wash. Rev. Code. § 36.28.010, which speaks for itself with respect to the general duties of county sheriffs. To the extent any remaining allegations in Paragraph 36 require a response, they are denied.

37. State Defendants admit that the Complaint names Joseph A. Brusic, in his official capacity as County Prosecutor for Yakima County, as a Defendant. State Defendants admit that the paragraph accurately quotes a portion of Wash. Rev. Code. § 36.27.020, which speaks for itself with respect to the duties of county prosecuting attorneys. To the extent any remaining allegations in Paragraph 37 require a response, they are denied.

## IV. FACTS AND LAW

38. State Defendants admit that Governor Jay Inslee signed ESSB 5078 on March 23, 2022, and that Plaintiffs have partially accurately quoted portions

1 of ESSB 5078 and Wash. Rev. Code § 9.41.010(36), which speak for themselves.  
2 State Defendants otherwise deny Paragraph 38.

3 39. State Defendants admit that Paragraph 39 partially accurately quotes  
4 portions of Wash. Rev. Code. 9.41.010(36), which speaks for itself. The  
5 remainder of Paragraph 39 asserts legal conclusions and argument to which no  
6 response is required. To the extent a response is required, the remainder of  
7 Paragraph 39 is denied.

8 40. ESSB 5078 speaks for itself, and State Defendants deny any  
9 allegations and characterizations that are inconsistent with ESSB 5078. To the  
10 extent any further response is required, Paragraph 40 is denied.

11 41. ESSB 5078 speaks for itself, and State Defendants deny any  
12 allegations and characterizations that are inconsistent with ESSB 5078. To the  
13 extent any further response is required, Paragraph 41 is denied.

14 42. State Defendants admit that ESSB 5078 establishes a gross  
15 misdemeanor punishable under Wash. Rev. Code 9A.20. ESSB 5078 and  
16 Wash. Rev. Code § 9A.20.021(2) speak for themselves, and State Defendants  
17 deny any allegations and characterizations that are inconsistent with ESSB 5078  
18 and Wash. Rev. Code § 9A.20.021(2). The remainder of Paragraph 42 asserts  
19 argument and legal conclusions that require no response. To the extent a response  
20 is required, the remainder of Paragraph 42 is denied.

1           43. State Defendants admit that ESSB 5078 defines “large capacity  
2 magazine” to include an ammunition feeding device with the capacity to accept  
3 more than 10 rounds of ammunition. ESSB 5078 speaks for itself, and  
4 State Defendants deny any allegations and characterizations that are inconsistent  
5 with ESSB 5078. Plaintiffs’ subjective characterization and speculation  
6 regarding “magazines that hold 15, 20, or 30 rounds of ammunition” require no  
7 response. To the extent a response is required, the remainder of Paragraph 43 is  
8 denied.

9           44. ESSB 5078 speaks for itself, and State Defendants deny any  
10 allegations and characterizations that are inconsistent with ESSB 5078.  
11 Paragraph 44 also asserts argument and legal conclusions that require no  
12 response. To the extent a response is required, Paragraph 44 is denied.  
13 State Defendants specifically deny that ESSB 5078 “expresses no concern  
14 whatsoever for the safety and welfare” of Washingtonians.

15           45. The document cited in Paragraph 45 speaks for itself, and Plaintiffs’  
16 characterizations of the information in the document require no response. To the  
17 extent a response is required, Paragraph 45 is denied.

18           46. ESSB 5078 speaks for itself, and State Defendants deny any  
19 allegations and characterizations that are inconsistent with ESSB 5078. The news  
20 release and video cited in Paragraph 46 also speak for themselves, and  
21 State Defendants deny any allegations and characterizations of the news release  
22

1 and video that are inconsistent with the news release and video. To the extent any  
2 further response is required, Paragraph 46 is denied.

3 47. ESSB 5078 speaks for itself, and State Defendants deny any  
4 allegations and characterizations of ESSB 5078 that are inconsistent with  
5 ESSB 5078. State Defendants are without knowledge or information sufficient to  
6 form a belief as to the truth of the remaining allegations in Paragraph 47 and,  
7 therefore, deny the same.

8 48. State Defendants are without knowledge or information sufficient to  
9 form a belief as to the truth of the allegations in Paragraph 48 and, therefore, deny  
10 the same.

11 49. The document quoted in Paragraph 49 speaks for itself and requires  
12 no response. To the extent a response is required, Paragraph 49 is denied.

13 50. The document quoted in Paragraph 50 speaks for itself and requires  
14 no response. The remainder of Paragraph 50 asserts argument and legal  
15 conclusions that require no response. To the extent a response is required,  
16 Paragraph 50 is denied.

17 51. Paragraph 51 asserts argument and legal conclusions that require no  
18 response. To the extent a response is required, the first two sentences of  
19 Paragraph 51 are too broad and vague to respond to meaningfully, and the third  
20 sentence is grammatically incoherent, and Paragraph 51 is therefore denied.

1           52. The Preamble of the Washington Constitution speaks for itself and  
2 requires no response. To the extent a response is required, State Defendants admit  
3 that the quotation is partially accurate, and otherwise deny Paragraph 52.

4           53. Paragraph 53 asserts argument, religious views, and legal  
5 conclusions that require no response. To the extent a response is required,  
6 Paragraph 53 is denied.

7           54. The Washington State Constitution speaks for itself and requires no  
8 response. To the extent a response is required, State Defendants admit that Article  
9 I, Section 29 of the Washington Constitution is accurately quoted. The remainder  
10 of Paragraph 54 asserts argument and legal conclusion that requires no response.  
11 To the extent a response is required, the remainder of Paragraph 54 is denied.

12           55. Paragraph 55 is denied.

13           56. State Defendants admit that Attorney General Ferguson, in his  
14 official capacity on behalf of the State of Washington, joined sixteen other states  
15 and the District of Columbia in submitting an amicus curiae brief to the  
16 U.S. Court of Appeals for the Ninth Circuit in the case of *Duncan v. Bonta*.  
17 State Defendants deny any remaining allegations in Paragraph 56.

18           57. Paragraph 57 asserts argument and legal conclusions that require no  
19 response. To the extent a response is required, Paragraph 57 is denied.

20           58. State Defendants admit that Attorney General Ferguson took an oath  
21 of office as provided in Wash. Rev. Code § 43.01.020—an oath he has proudly  
22

1 fulfilled and will continue to fulfill. State Defendants deny any remaining  
2 allegations in Paragraph 58.

3 59. Paragraph 59 asserts argument and legal conclusions that require no  
4 response. To the extent a response is required, Paragraph 59 is denied.  
5 State Defendants specifically deny any impropriety in connection with the  
6 Attorney General's exercise of official powers and duties.

7 60. State Defendants admit that Attorney General Ferguson held a press  
8 conference on September 7, 2016, and announced that he would submit agency  
9 request legislation in the 2017 state legislative session to ban assault weapons  
10 and high-capacity magazines. The news release cited in Paragraph 60 speaks for  
11 itself and requires no response, and State Defendants deny any allegations and  
12 characterizations of the news release that are inconsistent with the news release.  
13 State Defendants deny any remaining allegations in Paragraph 60.

14 61. The news release cited in Paragraph 61 speaks for itself, and  
15 State Defendants deny all inferences, allegations, and characterizations of the  
16 news release and embedded video that are inconsistent with the news release and  
17 embedded video. State Defendants deny any remaining allegations in  
18 Paragraph 61, and specifically deny any impropriety in connection with the  
19 Attorney General's exercise of official powers and duties.

20 62. The video cited in Paragraph 62 speaks for itself, and  
21 State Defendants deny all allegations and characterizations of the video that are  
22

1 inconsistent with the video. State Defendants deny the remaining allegations in  
2 Paragraph 62, and specifically deny any impropriety in connection with the  
3 Attorney General's exercise of official powers and duties.

4 63. The news article cited in Paragraph 63 speaks for itself, and  
5 State Defendants deny all allegations and characterizations of the news article  
6 that are inconsistent with the news article. State Defendants deny any remaining  
7 allegations in Paragraph 63, and specifically deny any impropriety in connection  
8 with the Attorney General's exercise of official powers and duties.

9 64. Paragraph 64 asserts argument and legal conclusions that require no  
10 response. To the extent a response is required, Paragraph 64 is denied, and  
11 State Defendants specifically deny any violation of the separation of powers and  
12 specifically deny any impropriety in connection with the Attorney General's  
13 exercise of official powers and duties.

14 65. Paragraph 65 asserts argument and legal conclusions that require no  
15 response. To the extent a response is required, Paragraph 65 is denied.

16 66. The news article cited in Paragraph 66 speaks for itself, and  
17 State Defendants deny any allegations and characterizations of the news article  
18 that are inconsistent with the news article. State Defendants deny any remaining  
19 allegations in Paragraph 66.

20 67. The news release cited in Paragraph 67 speaks for itself, and  
21 State Defendants deny any allegations and characterizations of the news release  
22

1 that are inconsistent with the news release. The remainder of Paragraph 67 asserts  
2 argument and legal conclusions that require no response. To the extent a response  
3 is required, Paragraph 67 is denied, and State Defendants specifically deny any  
4 impropriety in connection with the Attorney General's exercise of official powers  
5 and duties.

6 68. Paragraph 68 is denied. State Defendants specifically deny any  
7 impropriety in connection with the Attorney General's exercise of official powers  
8 and duties.

9 69. Paragraph 69 is repetitive and requires no further response. To the  
10 extent a response is required, Paragraph 69 is denied.

11 70. State Defendants admit that in 2021, for the fifth session,  
12 Attorney General Ferguson requested a bill to repeal Washington's death penalty.  
13 The press release cited in Paragraph 70 speaks for itself, and State Defendants  
14 deny all allegations and characterizations of the press release that are inconsistent  
15 with the press release. State Defendants deny the remaining allegations in  
16 Paragraph 70, and specifically deny any impropriety in connection with the  
17 Attorney General's exercise of official powers and duties.

18 71. The case cited in Paragraph 71 speaks for itself and requires no  
19 response. To the extent a response is required, State Defendants admit that the  
20 quotation from the dissenting opinion is partially accurate.



1           72. Paragraph 72 asserts argument and legal conclusions that require no  
2 response. To the extent a response is required, Paragraph 72 is denied.  
3 State Defendants specifically deny that “[Attorney General] Ferguson and his  
4 allies seek to bypass the lawful constitution-based process to amend and change  
5 our constitutionally-protected right to bear arms.”

6           73. Paragraph 73, which repeats meritless allegations made in support  
7 of a recall petition that was rejected as “legally and factually insufficient” in  
8 2020, is denied. State Defendants specifically deny any impropriety in  
9 connection with the Attorney General’s exercise of official powers and duties.

10          74. State Defendants admit that ESSB 5078 was agency request  
11 legislation by the Attorney General, and that Attorney General Ferguson initially  
12 submitted agency request legislation related to large capacity magazines in 2016.  
13 State Defendants deny the remainder of Paragraph 74, which repeats meritless  
14 allegations made in support of a recall petition that was rejected as “legally and  
15 factually insufficient” in 2020. State Defendants specifically deny any  
16 impropriety in connection with the Attorney General’s exercise of official powers  
17 and duties.

18          75. The news article cited in Paragraph 75 speaks for itself, and  
19 State Defendants deny all allegations and characterizations of the news article  
20 that are inconsistent with the news article. State Defendants deny the remainder  
21 of Paragraph 75, which repeats meritless allegations made in support of a recall  
22

1 petition that was rejected as “legally and factually insufficient” in 2020.  
2 State Defendants specifically deny any impropriety in connection with the  
3 Attorney General’s exercise of official powers and duties.

4 76. Wash. Rev. Code § 42.52.020 speaks for itself and requires no  
5 response. To the extent a response is required, State Defendants admit that it is  
6 accurately quoted. State Defendants deny any remaining allegations in  
7 Paragraph 76, and specifically deny any impropriety in connection with the  
8 Attorney General’s exercise of official powers and duties.

9 77. State Defendants admit that Attorney General Ferguson is a state  
10 officer. Paragraph 77 otherwise asserts argument and legal conclusions that  
11 require no response. To the extent a response is required, Paragraph 77, which  
12 repeats meritless allegations made in support of a recall petition that was rejected  
13 as “legally and factually insufficient” in 2020, is denied. State Defendants  
14 specifically deny any impropriety in connection with the Attorney General’s  
15 exercise of official powers and duties, and specifically deny that  
16 Attorney General Ferguson “wasn’t supposed to” publicly support a voter  
17 initiative.

18 78. Paragraph 78 asserts argument and legal conclusions that require no  
19 response. To the extent a response is required, Paragraph 78 is denied, and  
20 State Defendants specifically deny any impropriety in connection with the  
21 Attorney General’s exercise of official powers and duties.  
22

1           79. The news article cited in Paragraph 79 speaks for itself, and  
2 State Defendants deny all allegations and characterizations of the news article  
3 that are inconsistent with the news article. State Defendants admit that  
4 Attorney General Ferguson spoke at an I-1639 election-night event, and deny the  
5 remainder of Paragraph 79, and specifically deny any impropriety in connection  
6 with the Attorney General's exercise of official powers and duties.

7           80. State Defendants are unable to ascertain the authenticity of the  
8 embedded image, and therefore deny the same, and deny any remaining  
9 allegations in Paragraph 80.

10          81. Paragraph 81 is denied.

11          82. Paragraph 82 is too vague and argumentative to respond to  
12 meaningfully. To the extent a response is required, Paragraph 82 is denied.  
13 State Defendants specifically deny any impropriety in connection with the  
14 Attorney General's exercise of official powers and duties.

15          83. The news release cited in Paragraph 83 speaks for itself, and  
16 State Defendants deny all allegations and characterizations of the news release  
17 that are inconsistent with the news release. State Defendants deny any remaining  
18 allegations in Paragraph 83.

19          84. State Defendants admit that ESSB 5078 was agency request  
20 legislation submitted by the Attorney General, and otherwise deny Paragraph 84.  
21 State Defendants specifically deny any impropriety in connection with the  
22

1 Attorney General's exercise of official powers and duties.

2 85. State Defendants admit that Governor Inslee signed ESSB 5078 on  
3 March 23, 2022, and that the law went into effect on July 1, 2022. The remainder  
4 of Paragraph 85 asserts argument and legal conclusions that require no response,  
5 as ESSB 5078 speaks for itself. To the extent a response is required, the  
6 remainder of Paragraph 85 is denied, and State Defendants specifically deny any  
7 violation of the Attorney General's oath of office.

8 86. Paragraph 86 is denied. State Defendants specifically deny any  
9 impropriety in connection with the Attorney General's exercise of official powers  
10 and duties.

11 87. The case quoted in Paragraph 87 speaks for itself and requires no  
12 response. To the extent a response is required, State Defendants admit that the  
13 quotation is partially accurate, and otherwise deny Paragraph 87.

14 88. Paragraph 88 is denied. State Defendants specifically deny any  
15 violation of the separation of powers and specifically deny any impropriety in  
16 connection with the Attorney General's exercise of official powers and duties.

17 89. The document quoted in Paragraph 89 speaks for itself and asserts  
18 legal conclusions that require no response.

19 90. Paragraph 90 is denied. State Defendants specifically deny any  
20 violation of the separation of powers and specifically deny any impropriety in  
21 connection with the Attorney General's exercise of official powers and duties.  
22

1           91. State Defendants are without knowledge or information sufficient to  
2 form a belief as to the truth of the allegations and, therefore, deny the same.

3           92. State Defendants are without knowledge or information sufficient to  
4 form a belief as to the truth of the allegations within the first sentence of  
5 Paragraph 92, and, therefore, deny the same. The remainder of Paragraph 92  
6 asserts argument and legal conclusions that require no response, as ESSB 5078  
7 speaks for itself. To the extent a response is required, the remainder of  
8 Paragraph 92 is denied.

9           93. State Defendants are without knowledge or information sufficient to  
10 form a belief as to the truth of the allegations and, therefore, deny the same.

11           94. State Defendants are without knowledge or information sufficient to  
12 form a belief as to the truth of the allegations and, therefore, deny the same.

13           95. State Defendants are without knowledge or information sufficient to  
14 form a belief as to the truth of the allegations and, therefore, deny the same.

15           96. State Defendants are without knowledge or information sufficient to  
16 form a belief as to the truth of the allegation that Plaintiff Gimme Guns  
17 “consistently stocks and sells” high capacity magazines, and, therefore, denies  
18 the same. The remainder of Paragraph 96 asserts argument and legal conclusions  
19 that require no response, as ESSB 5078 speaks for itself. To the extent a response  
20 is required, the remainder of Paragraph 96 is denied.

**V. COUNT ONE**

97. The case quoted in Paragraph 97 speaks for itself and requires no response. To the extent a response is required, State Defendants admit that the case is partially accurately quoted, and otherwise deny Paragraph 97.

98. The United States Constitution and the cases quoted in Paragraph 98 speak for themselves and require no response. To the extent a response is required, State Defendants admit that the Second Amendment to the United States Constitution is accurately quoted, and otherwise deny Paragraph 98.

99. The Washington State Constitution speaks for itself and requires no response. To the extent a response is required, State Defendants admit that a portion of Article I, Section 24 of the Washington Constitution is accurately quoted. The remainder of Paragraph 99 asserts argument and legal conclusions that require no response. To the extent a response is required, the remainder of Paragraph 99 is denied.

100. The quoted portion of the Fifth Edition of *Black's Law Dictionary*, speaks for itself and requires no response.

101. The case cited in Paragraph 101 speaks for itself and requires no response. To the extent a response is required, State Defendants admit that the cited case is partially accurately quoted. State Defendants otherwise deny Paragraph 101.

1           102. Paragraph 102 asserts argument and legal conclusions that require  
2 no response. To the extent a response is required, Paragraph 102 is denied.

3           103. Paragraph 103 asserts argument and legal conclusions that require  
4 no response, as ESSB 5078 speaks for itself. State Defendants deny that  
5 ESSB 5078 regulates the ability to “possess, own or use” large capacity  
6 magazines. To the extent a further response is required, Paragraph 103 is denied.

7           104. Paragraph 104 asserts argument and legal conclusions that require  
8 no response. To the extent a response is required, Paragraph 104 is denied.

9           105. The case cited in Paragraph 105 speaks for itself and requires no  
10 response. To the extent a response is required, State Defendants admit that a  
11 portion of the cited case is accurately quoted. State Defendants deny the  
12 remainder of Paragraph 105.

13           106. Paragraph 106 asserts argument and legal conclusions that require  
14 no response. To the extent a response is required, Paragraph 106 is denied.

15           107. Paragraph 107 is denied.

16                                   **VI. COUNT TWO**

17           108. Paragraph 108 requires no response.

18           109. The first sentence of Paragraph 109 asserts argument and legal  
19 conclusions that require no response, as ESSB 5078 speaks for itself. State  
20 Defendants are without knowledge or information sufficient to form a belief as  
21 to the truth of the allegations in the second sentence of Paragraph 109 and,  
22

1 therefore, deny the same. To the extent a further response is required, Paragraph  
2 109 is denied.

3 110. Paragraph 110 is denied.

4 111. Paragraph 111 is denied.

## 5 **VII. PRAYER FOR RELIEF**

6 This section of the Complaint assert Plaintiffs' requests for relief, to which  
7 no response is required. To the extent a response is required, State Defendants  
8 deny Plaintiffs are entitled to the relief requested, or any relief.

## 9 **VIII. AFFIRMATIVE DEFENSES**

10 State Defendants' affirmative defenses to the Complaint are set forth  
11 below. By setting forth the following allegations and defenses, State Defendants  
12 do not assume the burden of proof on any matter or issue other than those on  
13 which they have the burden of proof as a matter of law.

14 1. Officials sued in their official capacity acting on behalf of the State  
15 are immune from suit.

16 2. This Court lacks subject matter jurisdiction.

17 3. Plaintiffs lack standing to sue either individually or on behalf of  
18 others.

19 4. Plaintiffs' claims are not ripe.

20 5. Plaintiffs have failed to state a claim upon which relief can be  
21 granted.



1 State Defendants reserve the right to assert additional defenses and  
 2 affirmative defenses as established by the facts of this case. State Defendants also  
 3 adopt and incorporate by reference any and all other defenses asserted by any  
 4 other defendant in this matter to the extent the Defendants may share in such  
 5 defense.

6 WHEREFORE, having fully answered Plaintiffs' Complaint and having  
 7 asserted defenses and affirmative defenses, State Defendants respectfully request  
 8 that Plaintiffs' requested relief be denied, that Plaintiffs' Complaint be dismissed  
 9 with prejudice, that State Defendants be awarded costs and reasonable attorney  
 10 fees as may be provided by statute or other law, and that the Court award such  
 11 other relief as the Court deems just and equitable.

12 DATED this 8th day of July 2022.

13 ROBERT W. FERGUSON  
 14 Attorney General

15 s/ R. July Simpson

16 R. JULY SIMPSON, WSBA #45869  
 17 WILLIAM MCGINTY, WSBA #41868  
 18 ANDREW HUGHES, WSBA #49515  
 19 BRIAN HUNT ROWE, WSBA #56817  
 Assistant Attorneys General  
 20 JEFFREY T. EVEN, WSBA #20367  
 Deputy Solicitor General  
 KRISTIN BENESKI, WSBA #45478  
 First Assistant Attorney General  
 21 July.Simpson@atg.wa.gov  
 William.McGinty@atg.wa.gov  
 22 Andrew.Hughes@atg.wa.gov

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

Brian.Rowe@atg.wa.gov  
Jeffrey.Even@atg.wa.gov  
Kristin.Beneski@atg.wa.gov  
*Attorneys for State Defendants*  
*Robert W. Ferguson and John R. Batiste*

**PROOF OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice. I have mailed by Federal Express Overnight Delivery the document to the following non-CM/ECF participants:

Simon Peter Serrano  
Silent Majority Foundation  
5238 Outlet Drive  
Pasco, WA 99301  
pete@silentmajorityfoundation.org  
*Counsel for Plaintiffs*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 8th day of July 2022 at Tacoma, Washington.

s/ R. July Simpson  
R. JULY SIMPSON, WSBA #45869  
Assistant Attorney General